

SENATE BILL 323

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SB 526/03 - FIN/EHE

2004 Regular Session
4r1818

By: **Senators Jones, Britt, Conway, Currie, Exum, Garagiola, Gladden,
Green, Hughes, Kelley, Lawlah, and McFadden**

Introduced and read first time: February 2, 2004

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development Financial Assistance - Minority Business Enterprise**
3 **Procurement Goals**

4 FOR the purpose of requiring that a recipient of certain financial assistance awarded
5 under the Economic Development Opportunities Program Fund and the
6 Maryland Economic Development Assistance Authority and Fund to comply
7 with certain minority business enterprise procurement goals under certain
8 circumstances; requiring that certain minority business enterprise procurement
9 goals be included in certain financial assistance agreements; authorizing the
10 Department of Business and Economic Development to require certain
11 recipients of financial assistance to submit certain information; requiring the
12 Department to submit an annual report to a certain committee; defining certain
13 terms; providing for a delayed effective date; and generally relating to applying
14 minority business enterprise procurement goals to financial assistance for
15 economic development awarded under the Economic Development
16 Opportunities Program Fund and the Maryland Economic Development
17 Assistance Authority and Fund.

18 BY renumbering
19 Article 83A - Business and Economic Development
20 Section 5-1411
21 to be Section 5-1412
22 Annotated Code of Maryland
23 (2003 Replacement Volume)

24 BY adding to
25 Article 83A - Business and Economic Development
26 Section 5-1411
27 Annotated Code of Maryland
28 (2003 Replacement Volume)

29 BY adding to
30 Article - State Finance and Procurement

1 Section 7-314(q)
2 Annotated Code of Maryland
3 (2001 Replacement Volume and 2003 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That Section(s) 5-1411 of Article 83A - Business and Economic
6 Development of the Annotated Code of Maryland be renumbered to be Section(s)
7 5-1412.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
9 read as follows:

10 **Article 83A - Business and Economic Development**

11 5-1411.

12 (A) (1) THIS SECTION APPLIES TO FINANCIAL ASSISTANCE UNDER THIS
13 SUBTITLE THAT EXCEEDS \$100,000.

14 (2) THIS SECTION DOES NOT APPLY TO FINANCIAL ASSISTANCE USED
15 SOLELY FOR THE PURPOSE OF ACQUIRING REAL PROPERTY OR STRUCTURES ON
16 REAL PROPERTY.

17 (B) WITH RESPECT TO FINANCIAL ASSISTANCE UNDER THIS SUBTITLE TO A
18 LOCAL GOVERNMENT:

19 (1) IF THE LOCAL GOVERNMENT HAS A PROGRAM FOR PROMOTING
20 PROCUREMENT OPPORTUNITIES AMONG MINORITY BUSINESSES THAT IS
21 ACCEPTABLE TO THE DEPARTMENT, THE LOCAL GOVERNMENT SHALL APPLY THE
22 REQUIREMENTS OF THAT PROGRAM TO THE PROCUREMENT OF GOODS OR SERVICES
23 MADE WITH THE PROCEEDS FROM THE FINANCIAL ASSISTANCE; BUT

24 (2) IF THE LOCAL GOVERNMENT DOES NOT HAVE A PROGRAM THAT IS
25 ACCEPTABLE TO THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION,
26 THE LOCAL GOVERNMENT IS SUBJECT TO SUBSECTION (C) OF THIS SECTION.

27 (C) (1) IN THIS SUBSECTION, "MINORITY BUSINESS ENTERPRISE" MEANS:

28 (I) AN INDIVIDUAL WHO HAS A SOCIAL OR ECONOMIC
29 IMPEDIMENT THAT:

30 1. IS BEYOND THE PERSONAL CONTROL OF THE INDIVIDUAL,
31 SUCH AS FINANCIAL CAPACITY, GEOGRAPHICAL OR REGIONAL ECONOMIC DISTRESS,
32 OR LACK OF FORMAL EDUCATION; AND

33 2. DOES NOT LIMIT THE ABILITY OF THE INDIVIDUAL TO
34 PROVIDE THE REQUIRED GOODS OR SERVICES; OR

1 (II) A BUSINESS ENTITY THAT IS AT LEAST 51% OWNED AND
2 CONTROLLED BY INDIVIDUALS WHO MEET THE STANDARDS UNDER ITEM (I) OF THIS
3 PARAGRAPH.

4 (2) WITH RESPECT TO FINANCIAL ASSISTANCE UNDER THIS SUBTITLE
5 TO AN ENTITY OTHER THAN A LOCAL GOVERNMENT, THE ENTITY SHALL AGREE TO
6 INCLUDE IN THE AGREEMENT PROVIDING THE FINANCIAL ASSISTANCE A PROVISION
7 ACCEPTABLE TO THE DEPARTMENT THAT WOULD ENCOURAGE THE PROCUREMENT
8 FROM MINORITY BUSINESS ENTERPRISES OF GOODS OR SERVICES PURCHASED WITH
9 THE PROCEEDS FROM THE FINANCIAL ASSISTANCE.

10 (3) IN NEGOTIATING THE PROVISION REQUIRED UNDER PARAGRAPH (2)
11 OF THIS SUBSECTION, THE DEPARTMENT SHALL TAKE INTO ACCOUNT RELEVANT
12 FACTORS, INCLUDING:

13 (I) THE INTENDED USE OF THE PROCEEDS FROM THE FINANCIAL
14 ASSISTANCE; AND

15 (II) THE FEASIBILITY OF OBTAINING THE REQUIRED GOODS OR
16 SERVICES FROM MINORITY BUSINESS ENTERPRISES.

17 (D) THE DEPARTMENT MAY REQUIRE THAT A RECIPIENT OF FINANCIAL
18 ASSISTANCE UNDER THIS SUBTITLE SUBMIT TO THE DEPARTMENT A LIST, OR AN
19 UPDATED LIST, OF THE MINORITY BUSINESS ENTERPRISES FROM WHICH GOODS OR
20 SERVICES WERE PROCURED AND THE NATURE AND DOLLAR AMOUNT OF THE GOODS
21 OR SERVICES.

22 **Article - State Finance and Procurement**

23 7-314.

24 (Q) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
25 MEANINGS INDICATED.

26 (II) "FINANCIAL ASSISTANCE" MEANS A GRANT, LOAN, OR
27 INVESTMENT PROVIDED UNDER THIS SUBSECTION THAT EXCEEDS \$100,000.

28 (III) "POLITICAL SUBDIVISION" INCLUDES AN AGENCY OR OTHER
29 INSTRUMENTALITY OF THE POLITICAL SUBDIVISION.

30 (2) THIS SUBSECTION DOES NOT APPLY TO FINANCIAL ASSISTANCE
31 USED SOLELY FOR THE PURPOSE OF ACQUIRING REAL PROPERTY OR STRUCTURES
32 ON REAL PROPERTY.

33 (3) WITH RESPECT TO FINANCIAL ASSISTANCE UNDER THIS SECTION TO
34 A POLITICAL SUBDIVISION:

35 (I) IF THE POLITICAL SUBDIVISION HAS A PROGRAM FOR
36 PROMOTING PROCUREMENT OPPORTUNITIES AMONG MINORITY BUSINESSES THAT
37 IS ACCEPTABLE TO THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT,

1 THE POLITICAL SUBDIVISION SHALL APPLY THE REQUIREMENTS OF THAT PROGRAM
2 TO THE PROCUREMENT OF GOODS OR SERVICES MADE WITH THE PROCEEDS FROM
3 THE FINANCIAL ASSISTANCE; BUT

4 (II) IF THE POLITICAL SUBDIVISION DOES NOT HAVE A PROGRAM
5 THAT IS ACCEPTABLE TO THE DEPARTMENT OF BUSINESS AND ECONOMIC
6 DEVELOPMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE POLITICAL
7 SUBDIVISION IS SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION.

8 (4) (I) IN THIS PARAGRAPH, "MINORITY BUSINESS ENTERPRISE"
9 MEANS:

10 1. AN INDIVIDUAL WHO HAS A SOCIAL OR ECONOMIC
11 IMPEDIMENT THAT:

12 A. IS BEYOND THE PERSONAL CONTROL OF THE INDIVIDUAL,
13 SUCH AS FINANCIAL CAPACITY, GEOGRAPHICAL OR REGIONAL ECONOMIC DISTRESS,
14 OR LACK OF FORMAL EDUCATION; AND

15 B. DOES NOT LIMIT THE ABILITY OF THE INDIVIDUAL TO
16 PROVIDE THE REQUIRED GOODS OR SERVICES; OR

17 2. A BUSINESS ENTITY THAT IS AT LEAST 51% OWNED AND
18 CONTROLLED BY INDIVIDUALS WHO MEET THE STANDARDS UNDER ITEM 1 OF THIS
19 SUBPARAGRAPH.

20 (II) WITH RESPECT TO FINANCIAL ASSISTANCE UNDER THIS
21 SECTION TO AN ENTITY OTHER THAN A POLITICAL SUBDIVISION, THE ENTITY SHALL
22 AGREE TO INCLUDE IN THE AGREEMENT PROVIDING THE FINANCIAL ASSISTANCE A
23 PROVISION ACCEPTABLE TO THE DEPARTMENT OF BUSINESS AND ECONOMIC
24 DEVELOPMENT THAT WOULD ENCOURAGE THE PROCUREMENT FROM MINORITY
25 BUSINESS ENTERPRISES OF GOODS OR SERVICES PURCHASED WITH THE PROCEEDS
26 FROM THE FINANCIAL ASSISTANCE.

27 (III) IN NEGOTIATING THE PROVISION REQUIRED UNDER
28 SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT OF BUSINESS AND
29 ECONOMIC DEVELOPMENT SHALL TAKE INTO ACCOUNT RELEVANT FACTORS,
30 INCLUDING:

31 1. THE INTENDED USE OF THE PROCEEDS FROM THE
32 FINANCIAL ASSISTANCE; AND

33 2. THE FEASIBILITY OF OBTAINING THE REQUIRED GOODS
34 OR SERVICES FROM MINORITY BUSINESS ENTERPRISES.

35 (5) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT
36 MAY REQUIRE THAT A RECIPIENT OF FINANCIAL ASSISTANCE UNDER THIS SECTION
37 SUBMIT TO THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT A LIST,
38 OR AN UPDATED LIST, OF THE MINORITY BUSINESS ENTERPRISES FROM WHICH

1 GOODS OR SERVICES WERE PROCURED AND THE NATURE AND DOLLAR AMOUNT OF
2 THE GOODS OR SERVICES.

3 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
4 Business and Economic Development shall report, on or before September 1 of each
5 year, in accordance with § 2-1246 of the State Government Article to the Joint
6 Committee on Fair Practices on the results of the implementation of the provisions of
7 this Act.

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 January 1, 2005.